

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

BOBBY BOSTIC,)	
)	
Plaintiff,)	
)	
v.)	No. 1:07CV00014 ERW
)	
GLENN BABICH et al.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to dismiss this case and to excuse plaintiff from paying the statutory filing fee. The motion shall be denied without prejudice.

Plaintiff, a prisoner, filed his complaint in this case along with a motion to proceed in forma pauperis. The Court previously reviewed plaintiff's complaint pursuant to the Prisoner Litigation Reform Act (PLRA) and found that it survived review under 28 U.S.C. § 1915(e)(2)(B). Consequently, the Court granted the motion to proceed in forma pauperis and ordered the Clerk to issue process or cause process to issue on the complaint.

This is the second case that plaintiff has brought against defendants for alleged medical mistreatment. Plaintiff first filed suit against these and other defendants on July 25, 2005. Bostic v. Dowdy, 1:05CV118 ERW (E.D. Mo.). Plaintiff was required to pay the filing fee in that case, and that case was dismissed on August 22, 2006, because plaintiff had not exhausted administrative remedies as required by the PLRA.

Plaintiff now moves to dismiss this case and to be excused from paying the filing fee because he was required to pay the filing fee in the 2005 case. Plaintiff claims that "it would cause him undue hardship to pay another filing fee in this proceeding."

Under the PLRA, "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner *shall be required to pay the full amount of a filing fee.*" 28 U.S.C. § 1915(b)(1) (emphasis added). "[N]othing allows the court to stop the collection of the filing fee once [it] authorize[s] a prisoner to proceed in forma pauperis [under 28 U.S.C. § 1915]. Copley v. Henderson, 980 F.Supp. 322, 323 (D. Neb. 1997). "Thus, prisoners should understand that from the moment we allow them to proceed in forma pauperis, they owe the United States of America the full filing fee, and this is true even if they voluntarily dismiss their cases." Id. Because the Court has granted plaintiff's application to proceed in forma pauperis in this case, the PLRA requires that plaintiff pay the required filing fee. As a result, the motion will be denied.

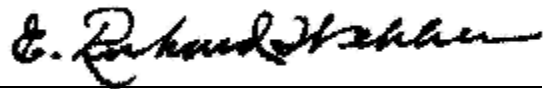
Plaintiff may file a second motion to voluntarily dismiss this action under Fed. R. Civ. P. 41(a). However, plaintiff is instructed that in the event such a motion were to be granted, plaintiff would still be required to pay the filing fee.

Finally, plaintiff is reminded that if he fails to pay the initial filing fee by March 12, 2007, this action will be dismissed without prejudice.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to dismiss this case and to be excused from paying the filing fee [#7] is **DENIED** without prejudice.

Dated this 21st Day of February, 2007.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written above a horizontal line.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE